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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,540	04/11/2001	John T. Brown	SP00-130	4778

22928 7590 09/28/2004
CORNING INCORPORATED
SP-TI-3-1
CORNING, NY 14831

EXAMINER

LOPEZ, CARLOS N

ART UNIT	PAPER NUMBER
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1731

DATE MAILED: 09/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

S.C

Advisory Action	Application No. 09/833,540	Applicant(s) BROWN ET AL.	
	Examiner Carlos Lopez	Art Unit 1731	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 September 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-3 and 5-53.

Claim(s) withdrawn from consideration: 54-222.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because:

Applicant's arguments filed 9/9/04 have been fully considered but they are not persuasive. Applicant argues that there is not motivation to further modify the Heitmann reference and points out that Heitmann makes no statement that it is deficient in any way, in water reduction, or that the preform is in further need of water reduction.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the knowledge generally available to one of ordinary skill in the art, it is a desired a reduction in the water content of the preform by diffusing drying air from the center of the preform and/or by the use of non-hydrogen containing fuel so that water is not incorporated into the preform. A person of ordinary skill in the art would thus readily recognize that sources that do not introduce water in the preform should be minimized which, as taught by Siegfried, it is achieved by the use of non-hydrogen fuels that do not introduce water to the preform. As one of ordinary skill in the art would not use a wet towel when seeking to dry a surface a person of ordinary skill in the art would not introduce water into a preform where water reduction is desired.

Applicant argues that Siegfried is directed to an IVD process and would not necessarily apply to the teachings of an OVD process. It is noted that the teachings of using non-hydrogen fuels applies to any process either IVD or OVD since the selection of fuel and the type of fuel used for both processes are the same.

Applicant also argues that Heitmann fails to mention whether or not the drying gas mixture contains or does not contain water. It is noted to applicant that the claimed flowing of a substantially water-free atmosphere is not Heitmann's drying gas mixture as depicted in figure 2. Instead, as explicitly noted in the final rejection, the claimed flowing of water free atmosphere over the preform is achieved when the hydrogen free fuels are combusted to produce water free combustion by-products. Hence applicant incorrectly assumes that the claimed flowing of a substantially water-free atmosphere is being deemed as the drying gas of Heitmann when in fact it is the flow of combustion by-products over the preform which would be water free since the supplied fuels to the burner lack any hydrogen atoms that can form into water.

Applicant also alleges that Abbott obtains its gas from a filtered room air and not dry atmosphere are required. It is noted that the Abbott reference is cited to show that the production of a preform is done in a closed environment to provide the desired atmosphere, such as the claimed low water content, and is not being cited to show that the preform is provided with dry air as alleged by applicant. It is only being cited to show the general knowledge of one of ordinary skill in the art, that when making glass preform it would be made in a closed housing to provide a controlled atmosphere for the preform.

Finally, applicant argues that Daito and Lemon fail to disclose the water-free nature of the gases being used by Daito and Lemon. It is noted that if Daito and Lemon fail to disclose that there exist water in the gases being supplied to the holding vessels, one of ordinary skill in the art would reason that there are no other gases except those specified. Applicant has not provided any evidence or reasoned arguments that Daito or Lemon have water in the gases being supplied to the holding vessels.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lopez whose telephone number is 571.272.1193. The examiner can normally be reached on Mon.-Fri. 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571.272.1189. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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